WESTERN STATE LAND COMMISSIONERS ASSOCIATION

TRUST LAND MANAGEMENT IN THE 21ST CENTURY: JEFFERSON'S LAND GRANT VISION ENACTED IN FY 2010 IN TWENTY STATES

Margaret Bird

Warren Buffet is quoted as saying, "Someone's sitting in the shade today because someone planted a tree a long time ago."[1] Land Commissioners across the country must have the same long view as Warren Buffett. Managing a forever trust for public schools, universities, schools for the deaf and blind, or other state institutions requires the balancing of the needs of current beneficiaries with the needs of yet unborn beneficiaries. It requires the long view of planting trees today so that others can benefit from the shade in the future.

ABOUT THE WESTERN STATE LAND COMMISSIONERS ASSOCIATION

The Western States Land Commissioners Association (WSLCA) is a 62 year old membership organization of Land Commissioners, land and mineral managers, and expert staff that collectively manage 447 million acres of state public land and school and institutional trust land in more than 20 states. They manage surface lands, subsurface mineral rights, and submerged sovereign lands under lakes, rivers, and coastal waters. Most of the lands are west of the Mississippi River with the exception of lands in Louisiana and Mississippi.

The mission of WSLCA is to:

- Help member states maximize earnings and preserve assets.
- Encourage prudent administration of school and institutional trusts.
- Develop, share, and evaluate information regarding lands, water, and resources.
- Share best practices and solutions.
- Educate key decision makers at the national level.
- Advocate positions on a wide range of critical issues for land and resource management in the West.

The Western States Land Commissioners' Association (WSLCA) collectively manages 447 million acres of land, mineral rights, and lands beneath navigable waterways. The 23 states are primarily western and include Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Louisiana, Minnesota, Mississippi, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming. The lands that are managed fall into two distinct categories:

- Lands held in trust for beneficiaries specified in the enabling or statehood acts that created each state. These 50 million surface acres and 76 million subsurface mineral acres are primarily held for the benefit of the common or public schools, but may also include

[1] Warren Buffett as quoted in The Real Warren Buffett: Managing Capital, Leading People (2002) by James O'Loughlin.

lands held in trust for universities, schools for the deaf and blind, mental health institutes, correctional facilities, and other public institutions.

- Sovereign lands granted to each state at statehood are the lands lying below the ordinary high water mark under navigable lakes and rivers and lands under coastal waters. Sovereign lands may also include lands the state has acquired through purchase or gift.

Scope

This report focuses solely on the lands held in trust for public schools, universities, and other beneficiaries specified by Congress in twenty states.[2] Managing these trusts is an awesome task, as the lands are generally scattered and represent the same acreage as the nine and a half smallest states. This is the equivalent of 20 land managers and their staffs managing every surface use in the states of Rhode Island, Delaware, Connecticut, Hawaii, New Jersey, New Hampshire, Vermont, Massachusetts, Maryland, and half of South Carolina. The equivalent mineral acreage would add the other half of South Carolina plus all of Maine to the list. The surface acreage is about the equivalent of a midsized state like Nebraska or Idaho and the mineral acreage is almost the equivalent of all the mineral acreage in New Mexico.

This report is organized so that mineral revenue sources are reported first, followed by surface revenue sources. When taking the states collectively, minerals, by far are the greatest contributors to schools and other beneficiaries. Tables with data on the fees charged or the revenue made by various states are scattered throughout.

CAUTION: TAKE CARE WHEN COMPARING STATES. Just as every state varies, the resources the state manages vary. If one state charges one fee or rate and another charges a much higher rate, that does not necessarily mean that the latter state is managing the resource better. A higher fee may reflect higher demand, greater quality of resource, lower costs of production, or other factors.

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[2] The methodology of the research project was to send land questionnaires on fiscal year 2010 land holdings, revenues, and specific land management practices to Land Commissioners in the 22 states that are members of WSLCA. Louisiana and Arkansas were dropped from the study as they did not have information on the remaining trust lands and funds in their respective state. Of the remaining 20 states, investment questionnaires were sent to the investing agency for the Permanent School Funds, University Funds, and other institutional trust funds. In Texas and Alaska, surveys on the investment of the University funds were sent to the University of Texas Investment Management Authority (UTIMCO) and to the University of Alaska and the Mental Health Trust. All of those institutions also received the land questionnaires on the management of their trust lands. Alaska responded to the investment questionnaire, but researchers were not able to get a response from the Alaska Department of Natural Resources or other trust land managers within the department. Statistics on trust land management are therefore not included in data charts and totals, but permanent fund data is included because data was supplied, where applicable, to questions on investment.

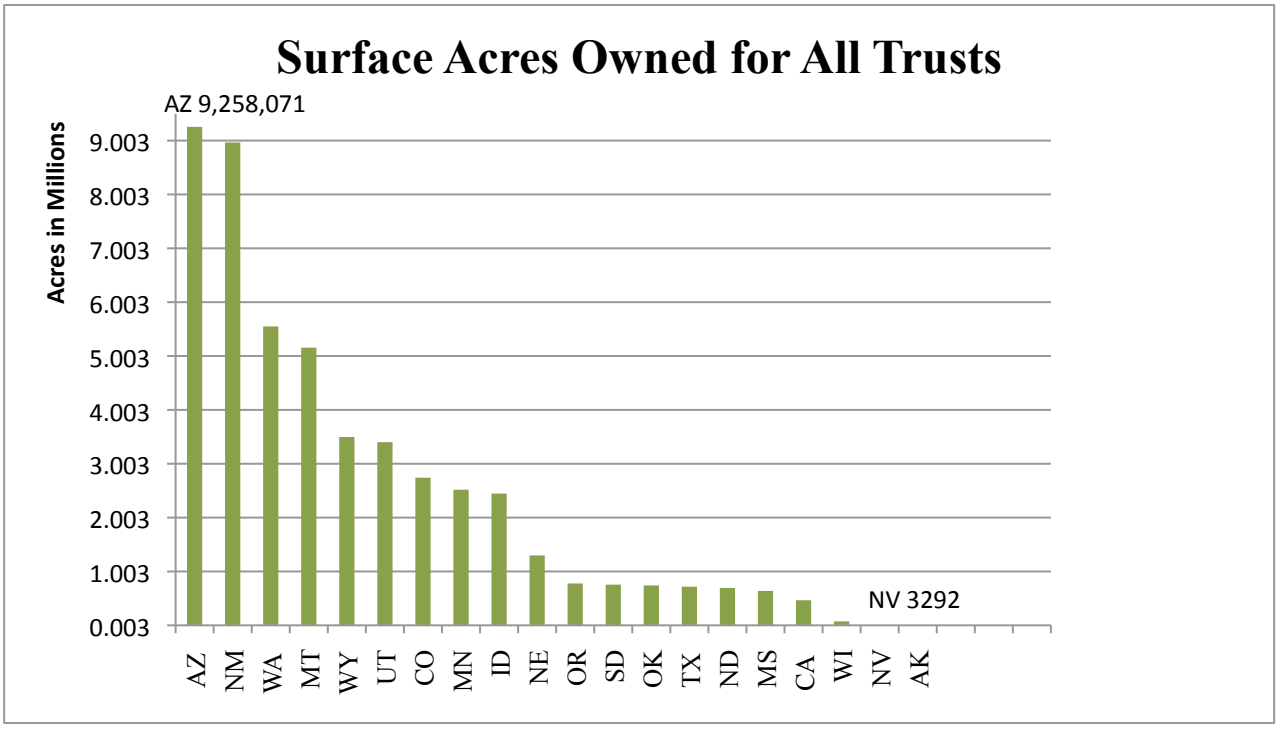
I. ACRES MANAGED IN TRUST FOR SCHOOLS AND OTHER INSTITUTIONS

There are 50 million acres of surface lands managed in trust in 20 states.[3] Perhaps most importantly, there are 76 million acres of subsurface mineral rights. In most, but not all cases, states own the surface and mineral rights to the 50 million acres. Most of the remaining 26 million acres of mineral rights were retained when surface acres of trust lands were sold after 1900.

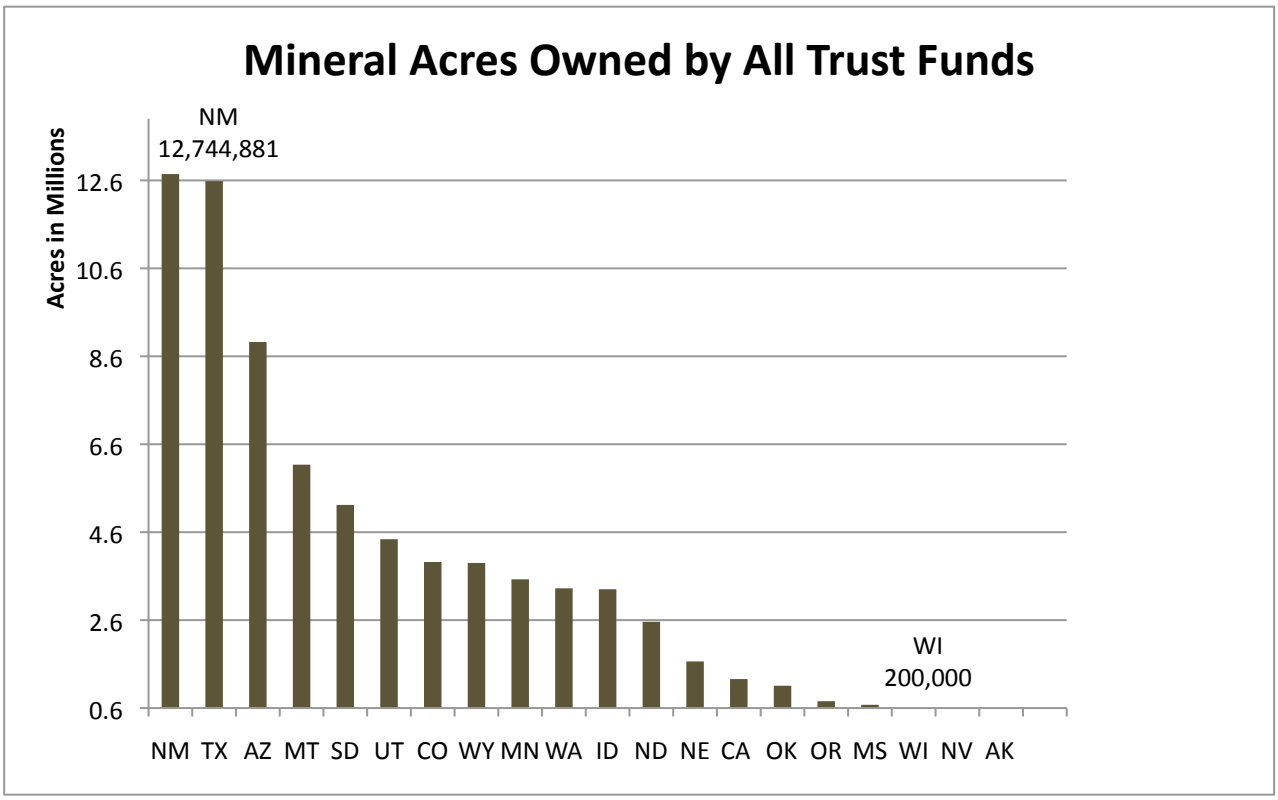
These 20 states were collectively granted over 114 million acres for schools by Congress at statehood in their statehood or enabling act. They also received additional lands in trust for other beneficiaries like universities, special schools for the deaf and blind, mental institutions, correctional facilities, and so forth. The exception to the Congressional grant was Texas which entered the United States as a free republic with no federal lands. Texas granted itself lands for schools and the University of Texas.

The earliest admission grant of lands in this study occurred in 1817 in Mississippi and the most recent was Alaska in 1959. In many states the bulk of trust lands were sold in the first few decades after statehood to settlers, and no mineral rights were retained. Current sales of surface estates require the retention of all mineral rights under federal law.

Below are the charts of both surface and mineral holdings in the 19 reporting states as of June 30, 2010:



[3] AK, AZ, CA, CO, ID, MN, MS, MT, NE, NM, NV, ND, OK, OR, SD, TX, UT, WA, WI, and WY.



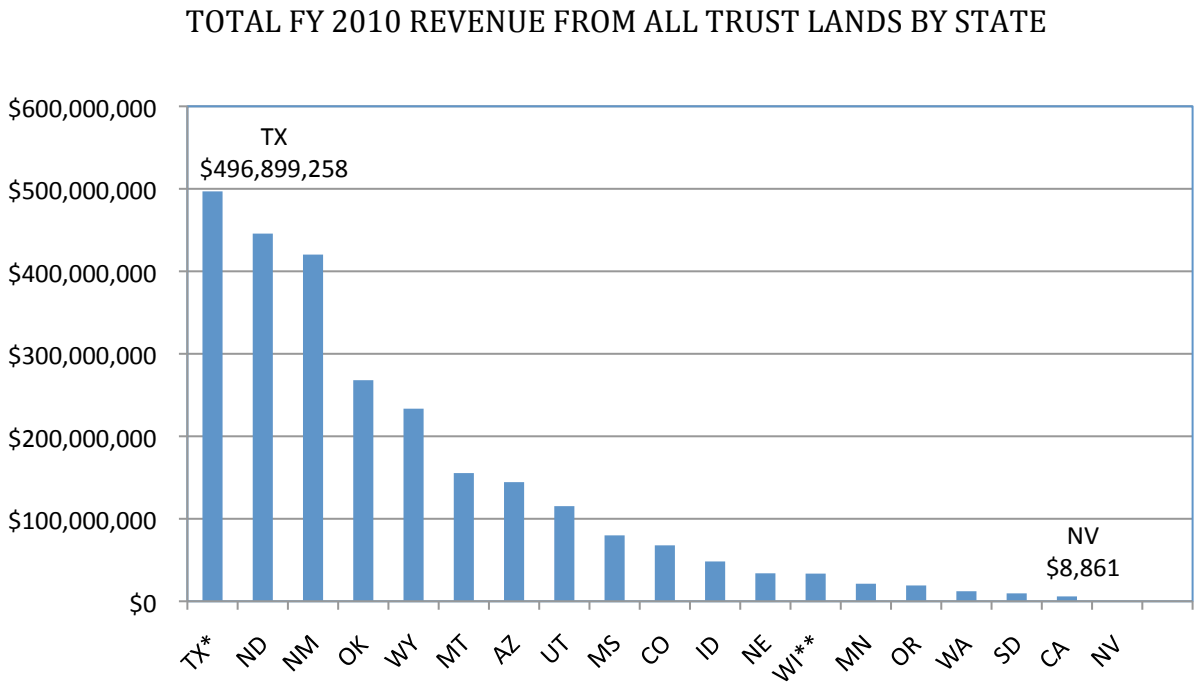
II. REVENUE GENERATED FROM TRUST LANDS

Revenue is generated on school and institutional trust lands in the same ways that money is made on private lands. Uses include oil and gas fields, coal mines, office buildings, motels and hotels, wind farms, geothermal energy production, solar fields, grazing, agricultural production, residential homes, timber production and other forest products, aquaculture, conservation leases, hunting permits, and recreational leases.

The map below highlights the primary revenue sources for each state's trust revenue as either surface or mineral:

DOMINANT REVENUE SOURCE FOR EACH STATE

The total gross revenue for all trust funds for FY 2010 is as follows:



* The Texas FY 2010 revenue is the total for the Texas General Land Office from school lands. No University of Texas revenue is included. The University of Texas did not respond to the land management questionnaire, so no data is available. UTIMCO did provide data on the investment of the University of Texas permanent fund.

** Wisconsin revenue includes fines, forfeitures, and unclaimed property which go to School Trust. Wisconsin surface revenue was $337,235, and there was no mineral revenue.

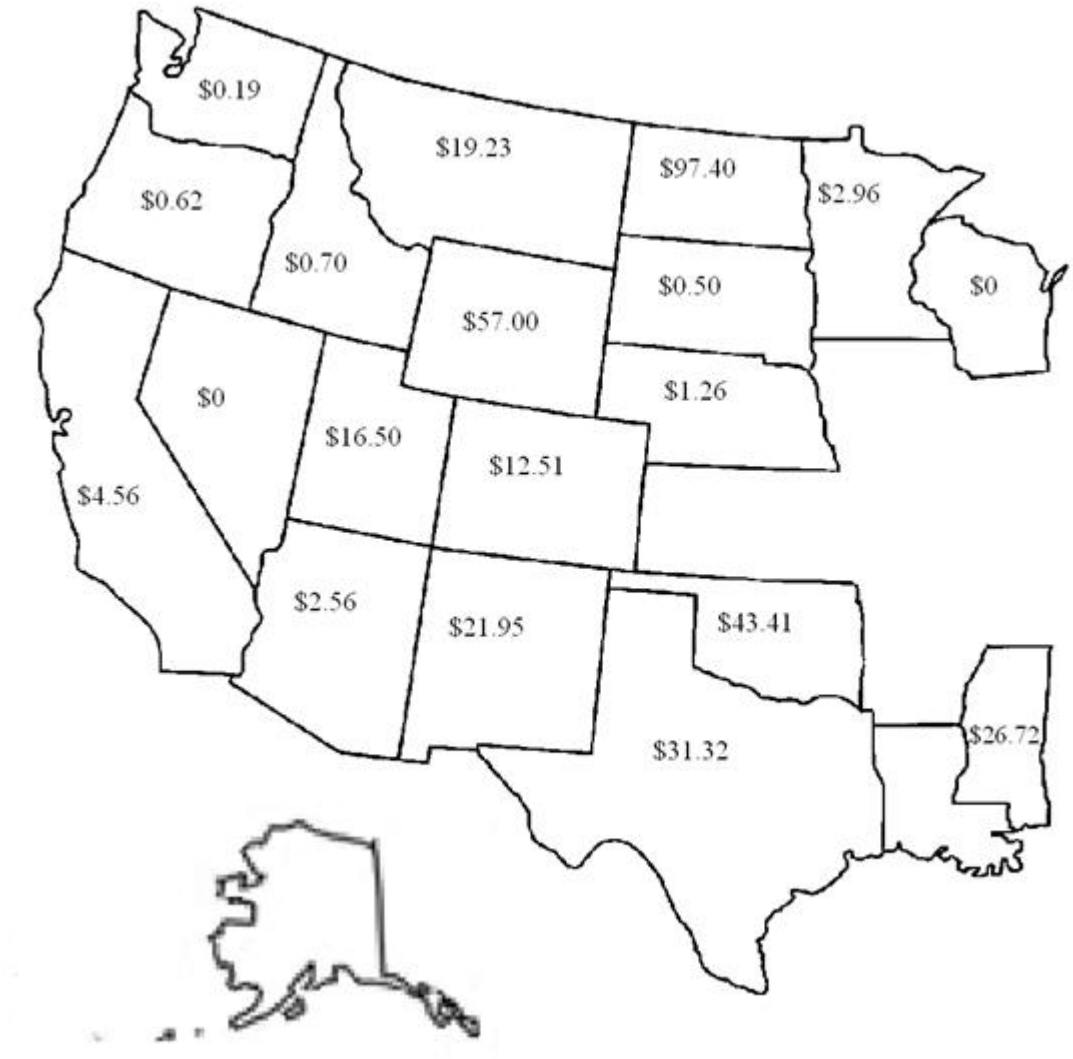
The graph above shows the huge difference in total income that occurs when a state has significant mineral production. Texas, North Dakota, New Mexico, Oklahoma, Wyoming, Montana, and Utah all had incomes over $100 million, and they all had oil and gas as their largest revenue source. The only exception is Arizona, a Surface Revenue Producing State, which generated $130 million in FY 2010 most of which was derived from the sale of freeway expansion lands, open space, and perpetual rights of way. Oil and gas production generates huge sums for states fortunate enough to have sizeable mineral holdings in oil and gas producing areas. That said, surface revenue sources tend to be more sustainable long-term due to the renewable nature of forests, agricultural lands, and grazing lands, when the long-term health of the forest and lands is respected. The exception to surface revenue being sustainable long-term is land sales—which clearly cannot provide revenue long-term.

A. MINERAL REVENUE PRODUCING STATES

The states whose largest revenue source is mineral production include Texas, Oklahoma, New Mexico, Utah, California, Colorado, Wyoming, Montana, and North Dakota. The main mineral revenue source is oil and gas for each of these states. Coal is the second highest revenue source in each of the mineral states, except California where geothermal is their second highest revenue source and North Dakota where investment returns generate the second highest amount of revenue. Minnesota's revenue was approximately equal between surface and mineral sources. Their single largest revenue source was iron ore/taconite.

The chart below shows the mineral return per mineral acre. The return varies from a high of $97 per acre in North Dakota to a low of $0.19 per acre in Washington with no mineral return in Nevada or Wisconsin

MINERAL REVENUE PER MINERAL ACRE OWNED



B. SURFACE REVENUE PRODUCING STATES

The Surface Revenue Producing states are states whose largest revenue is derived from surface activities such as agriculture, timber harvesting, grazing, land sales, aquatic leases, and other surface leases. These states include Washington, Oregon, Idaho, Nevada, Arizona, Nebraska, South Dakota, Wisconsin, Mississippi, and Minnesota. The highest surface return per acre was in Mississippi at $75.52 per surface acre owned and the lowest surface return per acre was in California at $0.35 per surface acre owned.

SURFACE REVENUE PER SURFACE ACRE OWNED

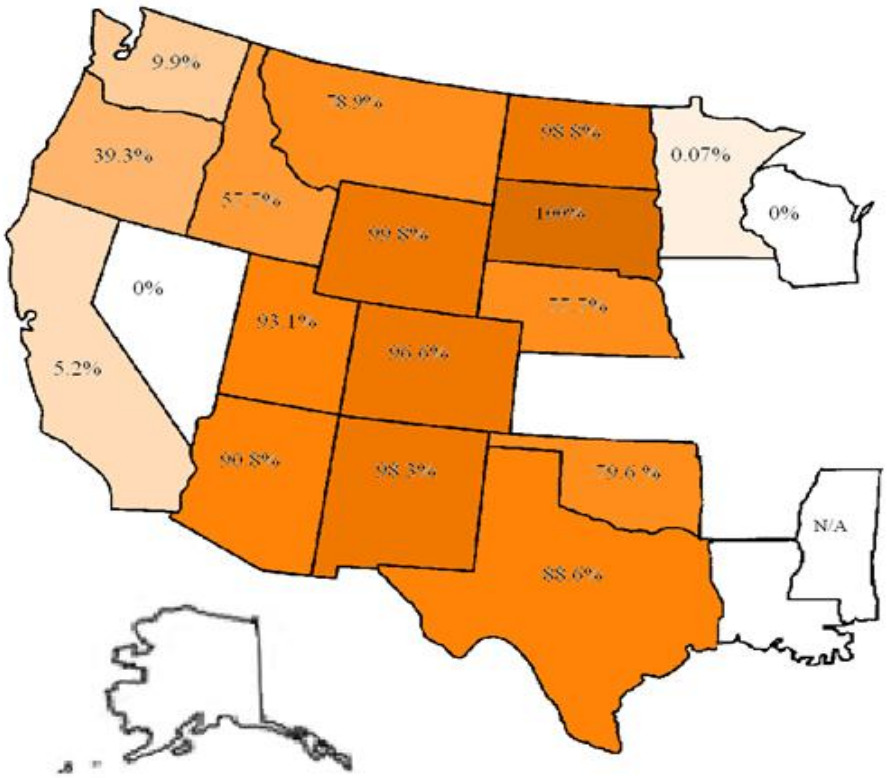
States would do well to understand the specifics of how Mississippi, Texas, Oregon, and Nebraska manage the surface of their trust lands, as their return is substantially higher than the other states. It must be kept in mind, however, that the variance may be attributed to higher quality of lands. Many states are now venturing into renewable energy and are anticipating these revenue sources will climb over the next decade.

Reports follow on the primary surface revenue sources of grazing, agriculture, timber harvesting, and leasing from residential, commercial and industrial uses.

1. <u>Grazing and Agriculture</u>
   Most of the states lease lands for grazing. The Animal Unit Month (AUM)[4] fees vary from a low of $2.28 per AUM in Arizona to a high between $65 and $150 per AUM in Texas. The average AUM fee across the states is $13.42. There is a huge variance in soils, grass productivity, moisture, and carrying capacity of the lands. Some of the lands can support several AUMs per acre. Other lands are so poor it takes over 100 acres to support one AUM.

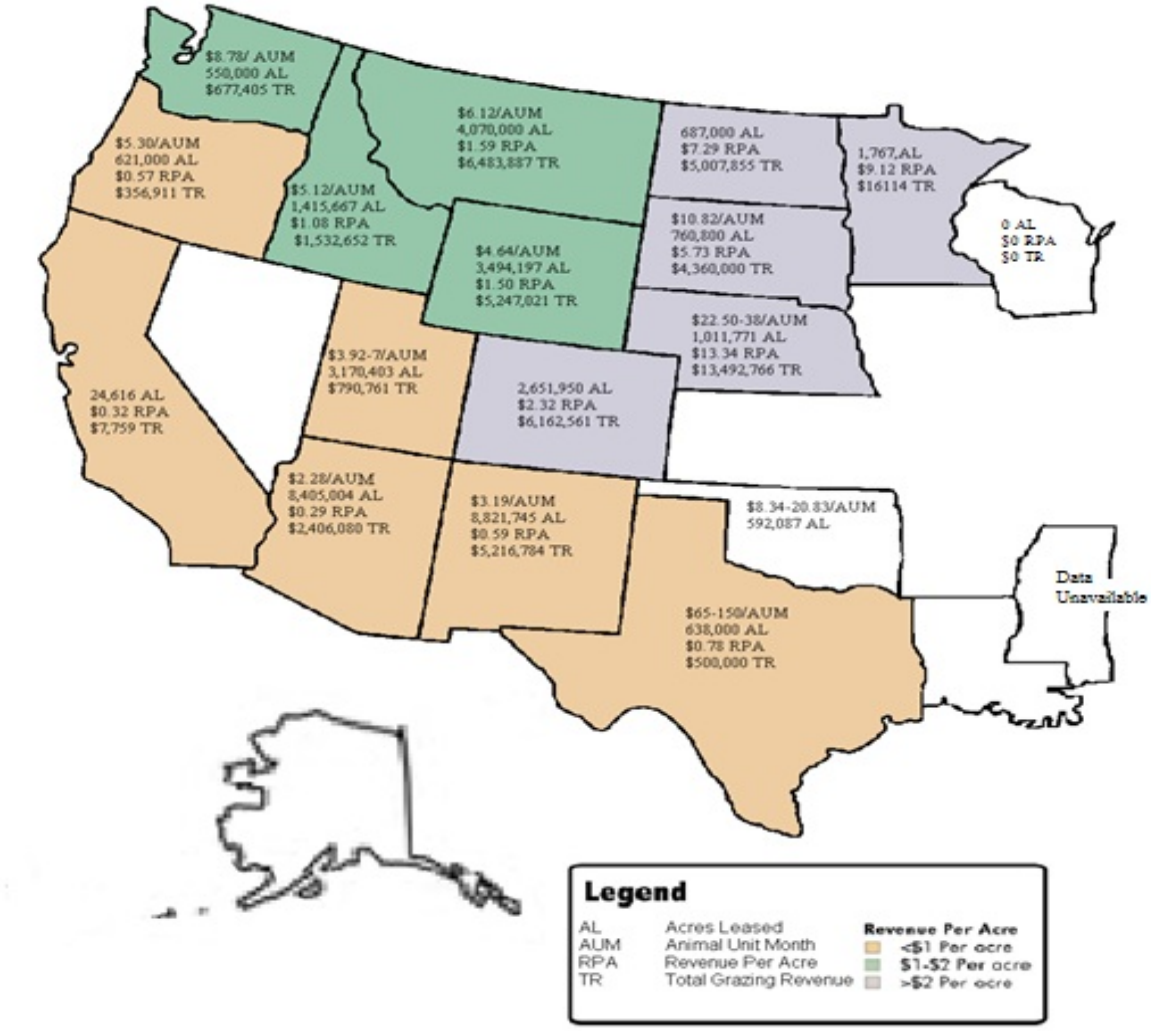
   The map below allows the reader to see the percentage of the total trust acreage that is leased for grazing. Grazing is a dominant surface activity in most of the states from Texas to Arizona and all states directly north of them.

PERCENTAGE OF SURFACE ACRES USED FOR GRAZING



   The data in the map below is not entirely comparable as some states like Mississippi and Oklahoma track grazing with agriculture and had no data on grazing alone. The state with the highest overall total revenue from grazing is Nebraska.

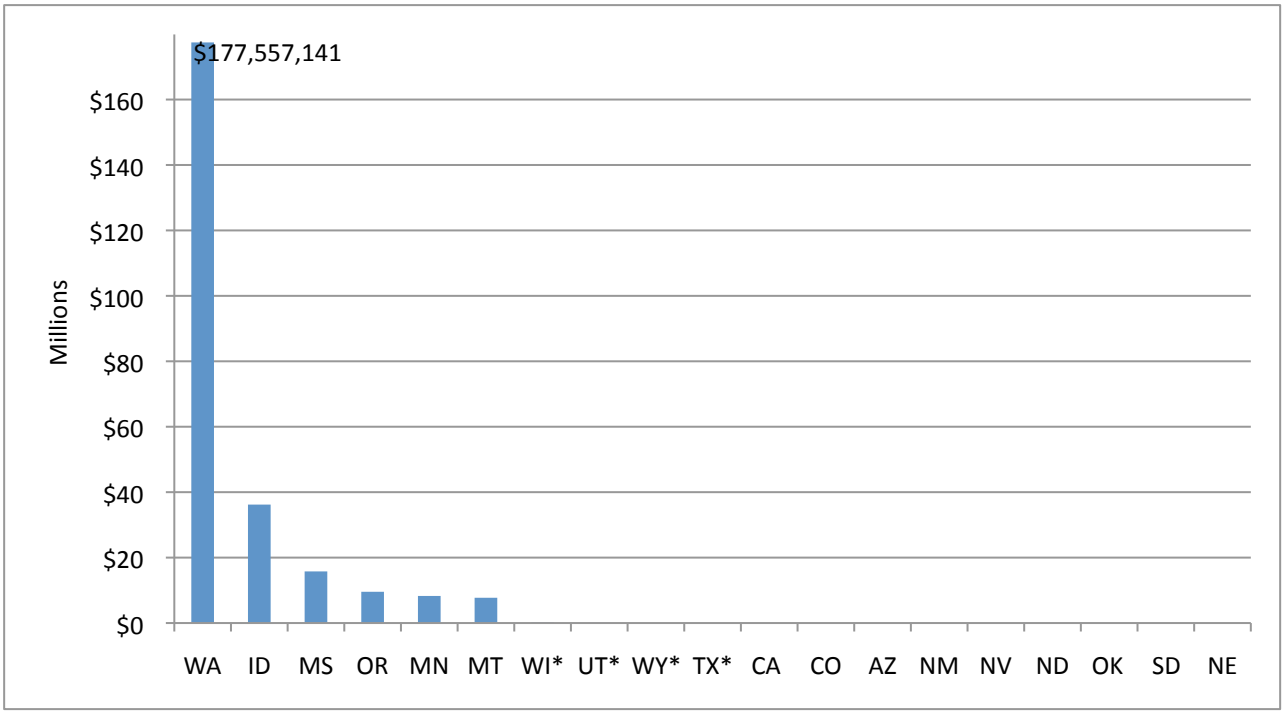
[4] An Animal Unit Month is the amount of forage needed to sustain a cow and calf for a month.


$8.78/ AUM
550,000 AL
$677,405 TR
$6.12/AUM
4,070,000 AL
$1.59 RPA
$6,483,887 TR
687,000 AL
$7.29 RPA
$5,007,855 TR
1,767,AL
$9.12 RPA
$16114 TR
0 AL
$0 RPA
$0 TR
$5.30/AUM
621,000 AL
$0.57 RPA
$356,911 TR
$5.12/AUM
1,415,667 AL
$1.08 RPA
$1,532,652 TR
$4.64/AUM
3,494,197 AL
$1.50 RPA
$5,247,021 TR
$10.82/AUM
760,800 AL
$5.73 RPA
$4,360,000 TR
$22.50-38/AUM
1,011,771 AL
$13.34 RPA
$13,492,766 TR
24,616 AL
$0.32 RPA
$7,759 TR
$3.92-7/AUM
3,170,403 AL
$790,761 TR
2,651,950 AL
$2.32 RPA
$6,162,561 TR
$2.28/AUM
8,405,004 AL
$0.29 RPA
$2,406,080 TR
$3.19/AUM
8,821,745 AL
$0.59 RPA
$5,216,784 TR
$8.34-20.83/AUM
592,087 AL
Data
Unavailable
$65-150/AUM
638,000 AL
$0.78 RPA
$500,000 TR
Legend
AL Acres Leased
AUM Animal Unit Month
RPA Revenue Per Acre
TR Total Grazing Revenue
Revenue Per Acre
<$1 Per acre
$1-$2 Per acre
>$2 Per acre

2. Timber Harvesting and Forest Products

Timber harvesting is the major revenue producer for Washington and Idaho. Timber harvesting, when done in a sustainable manner, is a renewable revenue source. That does not mean, however, that the timber revenue is stable on an annual basis. Prices for timber are very dependent on the health and activity of the construction industry and on the overall national economy. To stabilize the income, Idaho places their net renewable revenue from timber, grazing and other renewable sources and their interest and dividend returns from investment of the permanent School Fund in the Reserve Account. The Idaho State Board of Land Commissioners then decides annually the percentage of distribution.

FY 2010 TIMBER HARVESTING REVENUE



* WI FY 2010 Revenue $ 337,235; UT FY 2010 Revenue $177,495; WY FY 2010 Revenue $125,378; TX FY 2010 Revenue $125,000.

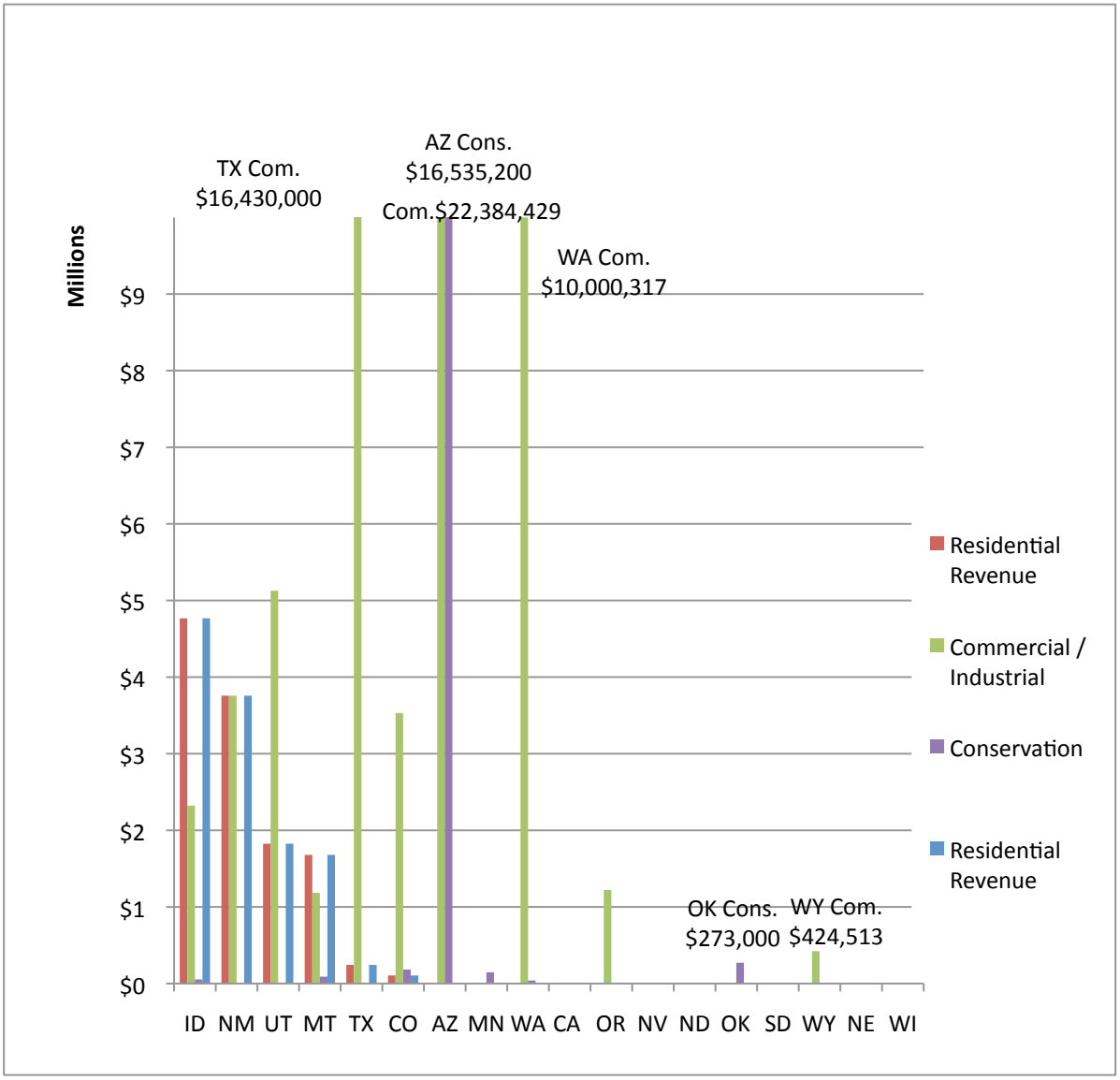
3. Revenue from Residential, Commercial, Industrial, and Conservation Leasing

A number of states like Nevada, North Dakota, South Dakota, Wyoming, Nebraska and Wisconsin have no residential leasing program at all. This is likely due to the location of their lands and may also be statutory prohibitions against residential leasing. Arizona may appear to not have residential leasing, but the data is misleading. Arizona has an active urban land program, but they do not lease individual homes, rather they issue development leases on large tracts that are then converted by developers from raw land to housing developments around Scottsdale and Phoenix. Those Arizona residential developments instead show up in the data as commercial and industrial properties or as land sales. The strongest residential revenue production is in Idaho with $4.8 million, New Mexico with $3.8 million, Utah with $1.8 million and Montana with $1.7 million.

Commercial developments and leases were most significant in Arizona at $22 million, Texas at $16 million, Washington state at $10 million, Utah with $5 million, New Mexico with almost $4 million, Colorado with $3.5 million, Idaho with $2 million, and Montana and Oregon each with $1 million.

Conservation and easement sales were a significant portion of the Arizona FY 2010 revenue. Arizona dwarfed all other states with $16.5 million in conservation sales. There were no conservation revenues in New Mexico, Utah, Texas, California, Oregon, Nevada, North Dakota, South Dakota, Wyoming, Nebraska, and Wisconsin. Some of this may be a function of statutory prohibitions; some may be a function of trust lands not being located in areas with high conservation demand; and some may be a function of limited conservation dollars available during difficult economic times.

REVENUE FROM RESIDENTIAL, COMMERCIAL, INDUSTRIAL, OR CONSERVATION LEASING

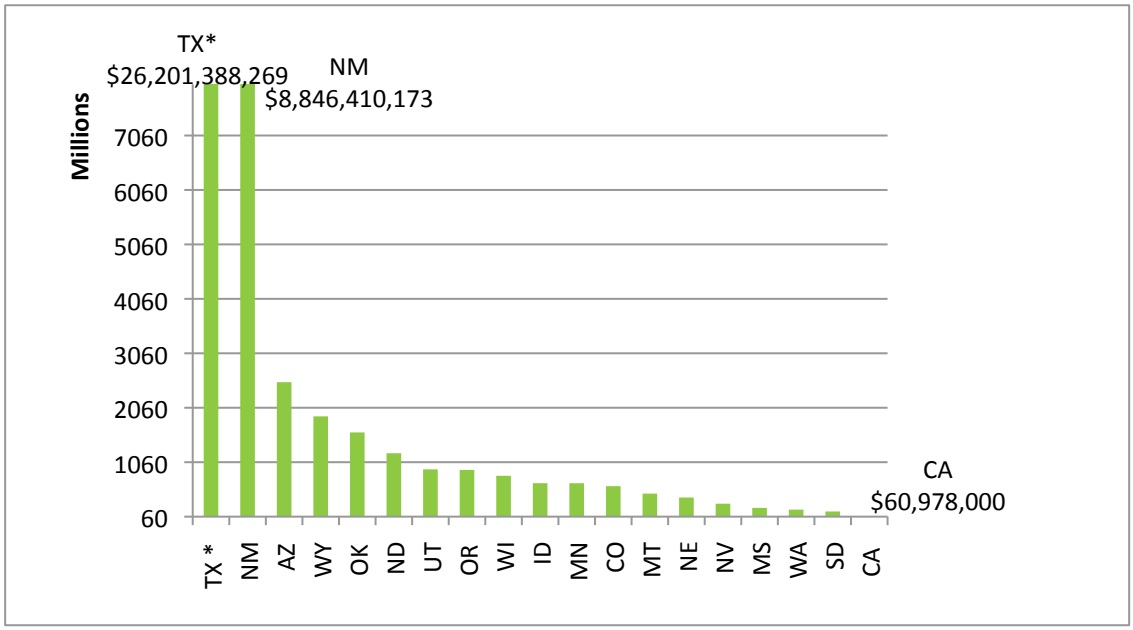


III. PERMANENT TRUST FUNDS INVESTED TO SUPPORT PUBLIC SCHOOLS, UNIVERSITIES, AND OTHER INSTITUTIONS

Lands were granted in trust by Congress[5] at the time of statehood to support public schools. There were additional grants for universities, and other state institutions. State enabling acts and state constitutions created permanent funds for schools from the proceeds from the lands. In some states, permanent funds were created for universities, schools for the deaf and blind, miners' hospitals, state mental facilities, penal institutions, and other state institutions. In other states these funds were not permanent. Because state investment boards provided data on the permanent School Fund but erratically provided data on the other trust funds, only Permanent School Fund data will be presented below.

Over time and with huge oil and gas plays or the development of coal properties, these permanent funds have become significant. Surface uses like grazing, agriculture, and timber harvesting have all added to the funds, depending on the state and its statutes. In all, counting permanent funds for all trusts for which data was provided, the FY 2010 market value of the $49 BILLION.

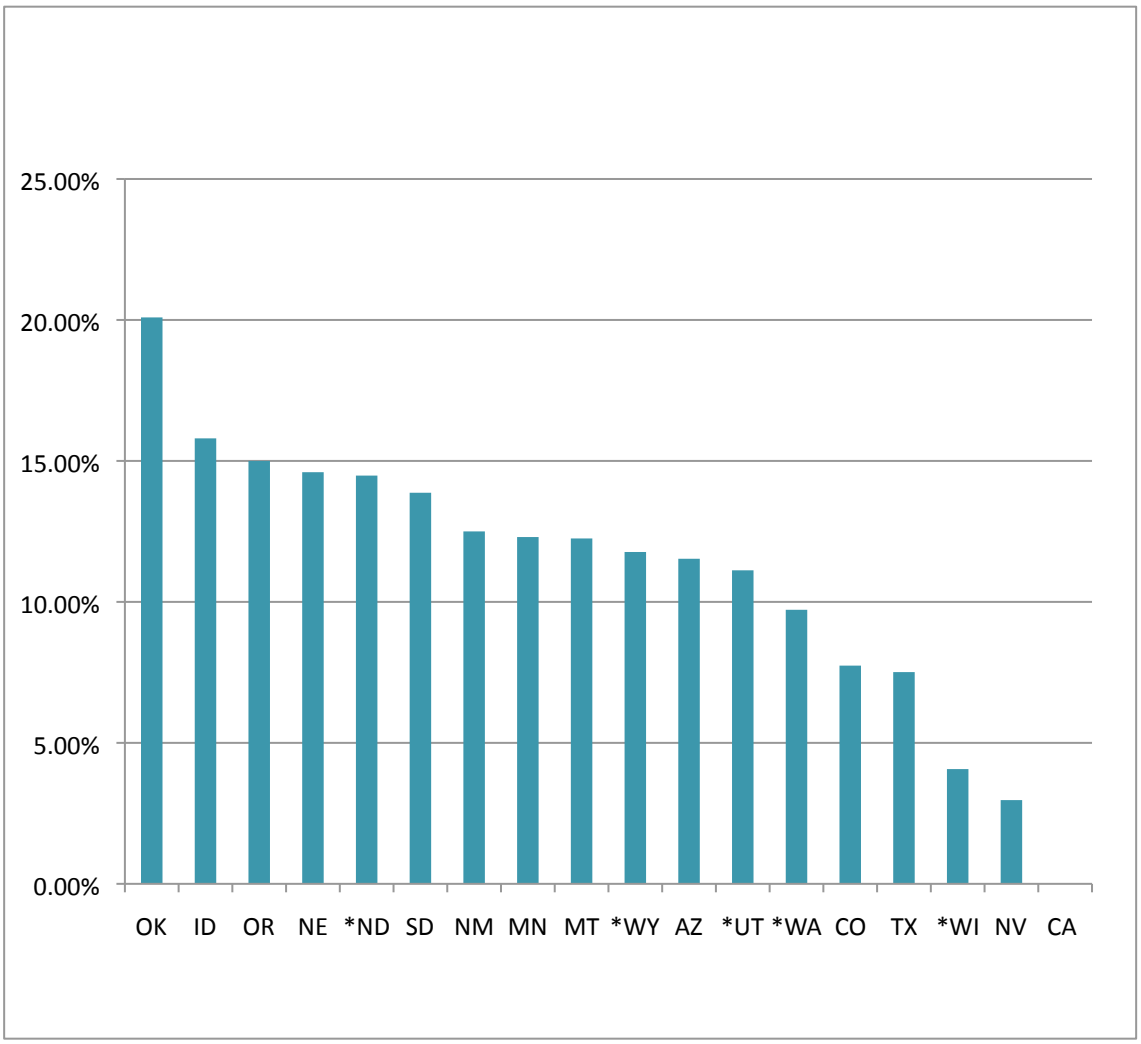
MARKET VALUE OF PERMANENT SCHOOL FUNDS



TX* Total is a combination of both the Texas Education Department and the Texas General Land Department investments.

[5] In Texas, the grant was made by the Republic of Texas at the time of statehood, since Texas joined the Union as an independent republic.

TOTAL RETURN ON INVESTMENT OF THE
PERMANENT SCHOOL TRUST FUNDS IN FY 2010



* WA: Common School Fund; ND: All permanent funds; UT: State school fund; WY: Common school permanent land fund; WI: Common school fund

IV. MAJOR ACCOMPLISHMENTS AND CHALLENGES BY STATE

ARIZONA

Perhaps the greatest challenge to generating revenue from trust lands has been funding the agency from state tax dollars. In most states, trust land agencies are funded from the trust proceeds they generate. Most are not funded with tax dollars. In Arizona, as state coffers have contracted, agency funding has also contracted, resulting in reduced staff and loss of the institutional memory needed to develop large projects for the greatest return to schools. With under-funding also comes decreased ability to generate revenue. States have found that the old adage, it takes money to make money, is true. Beginning FY 2010, the Arizona State Land Department was partially self-funded from land sale revenue and some other minor revenue sources. Self funding the Department from a portion of trust revenue could provide stability. There is, however, ongoing litigation related to that practice.

Cancelled sales have created an interesting dynamic. Because sales were financed through the agency, patents were only issued when full payment was received. Financially stable purchasers have asked for and been granted extensions. Others have cancelled their contracts, returning the lands on which infrastructure development had occurred. Many previously sold properties may be returning to the trust with infrastructure now in place. Payments on forfeited lands are treated as rental and distributed. With a limited staff, the agency is struggling to maintain these properties, while recognizing the incredible financial opportunities they offer for the future for funding public schools.

CALIFORNIA

The Land Management Division made major progress this fiscal year on the sale of 38,000 acres to the federal government. The sale is expected to be consummated in FY2011 for $8 million and the funds will be deposited in the School Land Bank Fund.

School lands were granted in specific locations. When settlers had already occupied the school section, other lands were granted “in lieu” of what schools did not receive. California is entitled to select about 47,000 “in lieu” acres from the federal Bureau of Land Management lands. These acres have now been owed to California schools for over one hundred and fifty years.

Currently $59 million of the permanent school funds have been loaned to the state of California. The state is paying interest at the Pooled Money Investment Account rate which is considered very low. The $59 million loan is scheduled to be re-paid with interest in 2013. The remaining $2 million is also deposited in the Pooled Money Investment Account until the State Lands Commission finds a worthy and safe property to invest in.

COLORADO

The State Land Board had two major accomplishments this fiscal year. Their first accomplishment set a state record. In May of 2010, an oil and gas auction generated $12

million in lease bonuses, largely due to interest in the Niobrara shale. That one auction was the highest bid offering since statehood and was three times higher than the next highest bid offering. Their second major accomplishment was a land exchange. Few outside of land offices understand how difficult, time consuming and usually futile land exchanges are with the federal government. It is not unusual for a land exchange to begin in one director's life time and not be consummated until another director's life time. Exchanges with the federal government are known to cost millions and often result in no exchange, even with Congressional authorization. The State Land Board actually exchanged 50,000 surface and mineral acres in the Baca Great Sand Dunes with the federal government for 35,000 surface and mineral acres of higher value and with greater potential to generate revenue.

IDAHO

The most serious threat to the Idaho trust land revenue, which is heavily dependent on timber prices, is the current national slump in demand for new single family home construction. The current over-supply in housing stock due to foreclosures impacts both the demand and price for raw material or saw timber used to manufacture lumber.

It would be most helpful to the IDL if changes could be made to the Idaho Constitution to allow the Board to use modern real estate methods to acquire and dispose of lands. Such a change would require action by the legislature and an approving vote by the people. The result of such a change could generate greater returns to the schools and other beneficiaries.

MINNESOTA

PolyMet is in the Environmental Impact Statement stage of permitting a copper-nickel mine. If successful, the mine will provide royalty to the permanent fund and greater interest to schools.

The land agency is working to consummate a hybrid land exchange and sale with the U. S. Forest Service on 86,000 acres of trust land captured within the Boundary Waters Canoe Area Wilderness. One third of the captured lands are proposed for exchange with the Forest Service for other Forest Service lands. The remaining two-thirds of the proposal would be an outright sale. Appraisals and value have yet to be agreed upon between the parties. Land exchanges with the federal government are known to take a decade or more.

MISSISSIPPI

The Secretary of State has been successful in working towards some major accomplishments during the past fiscal year. School 16th Section lease information was all placed on the agency website at www.sos.ms.gov. Actual copies of the lease documents are also available on the website. This public transparency will provide important protections to the school children's trust. The Secretary of State coordinated with the foresters at the Mississippi Forestry Commission to bring modern forest management practices to timber production on the 16th Section school lands. It is anticipated that these practices will

result in better harvests and greater revenue over time. The Secretary of State has published standard lease forms on the web to aid local school boards in best practices for leasing the various resources. The Secretary of State has also required that he review and approve all re-leasing to insure that the school trust receives fair market value on those transactions. Notices of public bids are provided on the website to encourage greater participation and public exposure.

MONTANA

To double revenue in 5 years during a mostly down economy is a huge accomplishment and that is exactly what the Montana DNRC has done. The agency leased 14 tracts of Otter Creek coal in Powder River County and generated over $85 million in bonus bids. New accounting procedures have resulted in better tracking of costs, revenue, and cash flow, meaning more revenue at lower costs. Using a Land Banking program, the agency sold almost 7,000 acres of isolated marginal grazing lands, purchasing replacement land with higher revenues for Montana's schools, while providing the public with public access and recreation. The agency also traded out of the Confederated Salish and Kootenai Reservation and received lands of equal value outside the reservation to generate revenue for Montana schools and other trust institutions.

The Montana DNRC issues conservation leases on 14,000 acres. They have leased 3,000 acres in central Montana for 27 wind turbines at the Martinsdale Wind Farm, with 7 to 15 turbines on trust lands. Along with this an additional 640 acres in south central Montana at the Springdale Wind Farm will have 8 turbines on school trust lands.

NORTH DAKOTA

There are very significant opportunities with the Bakken/Three Forks oil play. Estimates of reserves indicate that there may be as much as 500,000 barrels per day in production in future years.

As in other western states, the greatest threats to the trusts come from federal sources such as the cap and trade legislation and Environmental Protection Agency regulation of the hydraulic fracturing process.

NEBRASKA

A promising new source of additional revenue is wind development. The Board has entered into agreements on almost 20,000 acres of land for potential wind development. Carbon and rare minerals, including uranium, are other potential new sources of revenue.

The value of School Trust Lands, as of June 30, 2009, was approximately $677 million, and $717 million as of June 30, 2010. Steady appreciation is further illustrated by the fact that as of June 30, 2000, this land (including 146,000 more acres) was worth $380 million. For the last twenty years annual income and appreciation for school lands has averaged more than ten percent.

Since the school trust lands are associated with the State, many in the general public assume that the School Trust pays no real estate tax. However, effective January 1, 2001, School Land became subject to real estate taxes. The Board paid real estate taxes of $6,800,694 in 2010; about 60% of these taxes are distributed to public schools in the counties where the land is located.

In summary, the Nebraska School Lands are thriving. Land values are up, traditional revenues are up, and new sources of revenue are promising.

NEW MEXICO

The list of FY 2010 accomplishments on trust land includes:
· Sale and tippage fee charges for the High Desert solid waste site
· Exchange to allow construction of autism & disability facility
· Sale of 25 acres for border patrol station
· Negotiated land deal to link national power grid and provide consumers with a choice of 3 energy sources
· Exchange with Union Pacific Railroad for a train-to-truck transfer facility, giving the trusts the Lucy Ranch in exchange
· Land swap with Lea County to secure 640 acres for the site of International Isotopes for an uranium de-conversion and fluorine extraction processing facility. The trust will receive nearly 4,000 acres in exchange.
· Three option agreements with SunEdison on 560 acres for two solar power plants which is expected to power 10,000 homes
· Leased 26,000 acres in Lea County for a potash mining operation with expected royalties of $25 million.

The greatest threat to the trusts in New Mexico is the economic downtrend which affects all aspects of economic activity from the land. The office is excited about the opportunities that alternative energy in solar, wind and recreation offer.

NEVADA

There is little Nevada can do with only 3,292 surface acres and no mineral rights to build their permanent School Fund. However, in the 2011 General Assembly the Nevada legislature passed a resolution to seek additional lands from Congress, as Nevada is the most arid state in the nation and received only one section per township instead of the 4 sections per township granted to other less arid states.

OKLAHOMA

Oklahoma is still entitled to 80 acres from the original Congressional grants of over 3 million acres. The Commissioners of the Land Office (CLO) has selected 80 acres but the federal government has refused to grant the mineral rights with the property. The CLO is

standing firm on acquiring all rights with the property and continuing to demand the selection be granted.

In the past, all revenue from non renewable sources, like oil and gas were saved and invested to grow the funds. All surface rental income plus investment income from the permanent funds, minus office expenses, were distributed to the schools and universities—the beneficiaries of the trust. During the 2010 legislative session, the Reform and Modernization Act changed the distribution of the funds. The new act permits lease bonus funds to be distributed to common schools, colleges and universities each year.

Technological upgrades to track royalty payments on a monthly basis have provided challenges and opportunities. Likewise the wind farms leased in western Oklahoma are a new area of focus for the CLO. The agency continues to market gas to educational institutions saving taxpayers and state institutions $2.2 million in FY 2010.

OREGON

Not all acreage granted by Congress at statehood has been deeded to the trusts in western states. In 1995, after over 40 years of requests, the Bureau of Land Management (BLM) finally deeded 1,200 acres. Since then 145 acres were deeded in Jackson County, 945 acres in South Redmond, 199 in Douglas County, 240 at Cline Buttes, and 640 acres at Juniper Canyon in Crook County. About 1,600 acres remain to be selected. The Department has led all other states in its persistence to receive title to all the lands which it was granted by Congress at statehood.

The Department is self-funded from the earnings generated on the Common School Fund. No tax dollars are used to support the agency. Since it takes money to make money, it is helpful the agency is not dependent on tax dollars during recessionary periods.

Species and habitat protections for Northern spotted owls, marbled murrelets, Coho salmon, sage grouse, and pygmy rabbits continue to impact revenue. Opportunities also exist for trust lands, including wave energy; solar and geothermal uses in eastern Oregon; selling and exchanging difficult to manage lands for others with greater revenue potential; and ecosystem services.

SOUTH DAKOTA

Currently, the major threat to the trust lands is the consideration of consolidating the office with the State Treasurer to reduce state employees. Combining totally unrelated functions, such as investment and land management, have not been successful moves when other states have tried it. With trust lands, other states have combined revenue generating trust land management with conservation functions of most departments of natural resources. Such moves have resulted in divided loyalty, dilution of focus on revenue generating activities, and a serious breach of the state's fiduciary duty. Trust beneficiaries have found such moves short-sighted and detrimental to long term revenue for schools and other trusts.

TEXAS

The Permanent School Fund invested by the General Land Office obtained its first surface acquisition outside of Texas in the spring of 2010. The office entered into a co-investment opportunity partnership which purchased a 165 acre operating dairy farm in metro Phoenix. The Permanent School Fund continues to work with a partner in the development of 571 acres in Sugarland, near Houston.

The future holds new opportunities for the General Land Office to generate revenue from these school trust lands. Numerous new oil and gas resource plays have provided opportunities to earn royalties on lands with limited or no previous leasing activity. The General Land Office is also participating in wind, solar, and geothermal leases to provide renewable revenue for the fund. The office has issued competitive leases for data communications.

In the past, revenues were deposited in the Permanent School Fund invested primarily in financial instruments by the State Board of Education. For the last few years, revenue has been invested by the General Land Office in private equity real assets that provide additional diversification and return for the fund.

UTAH

The School and Institutional Trust Lands Administration (SITLA) staff has created an agency that is respected in both the business and legislative communities. Their passion for supporting schools has paid off. All school revenue is saved in the permanent school fund that has gone from $19 million in 1982 to almost $1 billion in FY 2010. All interest and dividends are distributed annually to every public school based primarily on number of students. Each school has a School Community Council composed of elected parents, elected teachers and the principal that study school data and create an academic plan to improve student performance in the selected academic area. They set measurements and report their progress to their community and legislative representatives.

Most local jurisdictions have welcomed the development of trust lands which increases their tax base and provides employment opportunities for their citizens. However, occasionally local governments see the trusts as a source of funding for projects that do not provide revenue for the trust and others have attempted to impose local restrictions to regulate surface uses and mineral development.

WASHINGTON

It is hard to imagine the range of challenges arising for the Department as they manage a scattered land mass the size of Massachusetts. Over 90% of the non-aquatic lands are actively managed for forest products and timber—an awesome task and one with challenges and opportunities. There are challenging issues with the Environmental Protection Agency (EPA) on water movement, on endangered species like the marbled

murrelet, and on rules that threatened the use of Biomass/Cogeneration plants which are integrated into the technology of most sawmills. There are threats of regulatory takings of trust assets for endangered species. Proposed EPA rules threaten the manufacturing infrastructure stability for a viable timber sales program, substantially impacting trust revenues. On the other hand, streamlining or eliminating the SEPA process for Class III timber sales or removing the export restriction on state timber production could provide opportunities for increased revenue.

WISCONSIN

Wisconsin's Board of commissioners of Public Lands (BCPL) manages the state's remaining trust lands as well as the principal of the permanent trust funds. Less than 80,000 acres of trust lands remain in Wisconsin, including approximately 5,000 acres of common school lands. Many of the remaining trust lands are isolated, unproductive parcels with management obstacles. However, BCPL is using its "Land Bank" authority to transform its land holdings. BCPL is selling its unproductive parcels and using the proceeds to acquire productive working forest lands and better access to the trust lands. Since the enactment of the Land Bank legislation, BCPL has reduced its unproductive wetlands holdings by 10%, and increased its land base with legal access by 16%.

The investment of the permanent school funds in most other states are subject to the Prudent Investor Rule. However, Wisconsin law limits BCPL to investing its permanent trust funds in a statutory list of mostly fixed income instruments. As a result, Wisconsin's rate of return on permanent trust funds is constrained by the low market returns of those investment options listed in statute.

WYOMING

The May 12, 2010 sale brought a record $45 million in oil and gas bonus bids to trust coffers from a public oil and gas lease auction. Recent discoveries in Converse County, Wyoming and Weld County, Colorado, along with increased oil prices, fueled the auction bids based on speculation of a major Niobrara Chalk formation in Wyoming and Colorado. In all, oil and gas rental payment, royalty payments on production, and bonus bids generated over $196 million, mostly for public schools.

OSLI has been an advocate and leader in wind energy. The fees for wind farms are negotiated and there are now 48,000 acres leased for wind production, which has generated almost one-half million in revenue.

CONCLUSION

Warren Buffet said, "Someone's sitting in the shade today because someone planted a tree a long time ago." Land Commissioners who manage 73 million acres of trust land in 20 states have little time to sit in the shade. They have built on the successes of their predecessors in managing lands and minerals equivalent to the ten smallest U.S. states. Their efforts on trust lands and wise, prudent investment of those proceeds from the lands have built

permanent school funds with a collective market value of $48,751,753,318 as of June 30, 2011. Their collective market value--$49 BILLION—significantly exceeds that of both Harvard and Princeton's endowment funds. Our country's founding fathers, who created these incredible trusts in every new state, would be joyful over the success of these 20 states and perhaps saddened by the loss of the school trusts and funds in the remaining states.